

(h) For purposes of this section, the term “Federal service” includes Federal service as defined in section 8521(a).

(Added Pub. L. 96-499, title X, §1023(b), Dec. 5, 1980, 94 Stat. 2657; amended Pub. L. 97-362, title II, §202(a), Oct. 25, 1982, 96 Stat. 1732; Pub. L. 102-318, title V, §532(a), July 3, 1992, 106 Stat. 317.)

REFERENCES IN TEXT

Sections 909 and 904 of the Social Security Act, referred to in subsec. (a), are classified to sections 1109 and 1104, respectively, of Title 42, The Public Health and Welfare.

AMENDMENTS

1992—Subsec. (c)(3). Pub. L. 102-318 added par. (3).

1982—Subsecs. (b), (c)(1). Pub. L. 97-362, §202(a)(1), substituted “chapter” for “subchapter” wherever appearing.

Subsec. (h). Pub. L. 97-362, §202(a)(2), added subsec. (h).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 532(b) of Pub. L. 102-318 provided that: “The amendment made by subsection (a) [amending this section] shall apply to failures outstanding on the date of the enactment of this Act [July 3, 1992] or at any time thereafter.”

EFFECTIVE DATE OF 1982 AMENDMENT

Section 202(b)(1) of Pub. L. 97-362 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983.”

TRANSFER OF APPROPRIATED UNEMPLOYMENT COMPENSATION FUNDS

Pub. L. 97-362, title II, §202(b)(2), Oct. 25, 1982, 96 Stat. 1733, provided that: “All funds appropriated which are available (on October 1, 1983) for the making of payments to States under chapter 85 of title 5, United States Code, on the basis of Federal service (as defined in section 8521(a) of such title 5) or for the making of payments under such chapter on the basis of such service in States which do not have in effect an agreement under such chapter, shall be transferred on such date to the Federal Employees Compensation Account established by section 909 of the Social Security Act [42 U.S.C. 1109]. On and after such date, all payments described in the preceding sentence shall be made from such account as provided by section 8509 of such title 5.”

Section 1023(c) of Pub. L. 96-499 provided that: “All funds appropriated which are available for the making of payments to States after December 31, 1980, pursuant to agreements entered into under subchapter I of chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such subchapter in States which do not have in effect such an agreement, shall be transferred on January 1, 1981, to the Federal Employees Compensation Account established by section 909 of the Social Security Act [42 U.S.C. 1109]. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.”

SUBCHAPTER II—EX-SERVICEMEN

§ 8521. Definitions; application

(a) For the purpose of this subchapter—

(1) “Federal service” means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and At-

mospheric Administration if with respect to that service—

(A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(B)(i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

(ii) the individual was discharged or released before completing such term of active service—

(I) for the convenience of the Government under an early release program,

(II) because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

(III) because of hardship, or

(IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more;

(2) “Federal wages” means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590; Pub. L. 90-83, §1(89), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94-566, title I, §116(e)(4), Oct. 20, 1976, 90 Stat. 2673; Pub. L. 96-215, §4(b), Mar. 25, 1980, 94 Stat. 124; Pub. L. 96-364, title IV, §415(a), Sept. 26, 1980, 94 Stat. 1310; Pub. L. 97-35, title XXIV, §2405(a), Aug. 13, 1981, 95 Stat. 876; Pub. L. 97-362, title II, §201(a), (b), Oct. 25, 1982, 96 Stat. 1732; Pub. L. 102-164, title III, §301(a), (b), Nov. 15, 1991, 105 Stat. 1059.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1371 (a)-(c).	Aug. 28, 1958, Pub. L. 85-848, §3 “Sec. 1511(a)-(c)”, 72 Stat. 1088.

In subsection (a)(1), the words “armed forces” are co-extensive with and substituted for “Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States” in view of the definition of “armed forces” in section 2101. The words “after October 27, 1958” are sub-

stituted for “after the sixtieth day after August 28, 1958”.

In subsection (b), the words “with respect to weeks of unemployment ending after the sixtieth day after August 28, 1958” are omitted as obsolete because the law is here stated with prospective effect.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This incorporates into 5 U.S.C. 8521 the definition of “State” which is applicable to the source statute of that section by virtue of section 1301(a)(1) of title 42.

CODIFICATION

Section 8 of Pub. L. 102-107, Aug. 17, 1991, 105 Stat. 546, which contained provisions substantially identical to those of section 301 of Pub. L. 102-164, amending this section and enacting provisions set out below, did not become effective pursuant to section 10(b) of Pub. L. 102-107, because the President did not take the action required by that section by Aug. 17, 1991.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-164, §301(b), substituted “90 days” for “180 days”.

Subsec. (c). Pub. L. 102-164, §301(a), struck out subsec. (c) which read as follows:

“(1) An individual shall not be entitled to compensation under this subchapter for any week before the fifth week beginning after the week in which the individual was discharged or released.

“(2) The aggregate amount of compensation payable on the basis of Federal service (as defined in subsection (a)) to any individual with respect to any benefit year shall not exceed 13 times the individual’s weekly benefit amount for total unemployment.”

1982—Subsec. (a)(1). Pub. L. 97-362, §201(a), substituted provision that “Federal service” means active service (not including active duty in a reserve status unless for a continuous period of 180 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service), and the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or the individual was discharged or released before completing such term of active service for the convenience of the Government under an early release program, because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability, because of hardship, or because of personality disorders or inaptitude but only if the service was continuous for 365 days or more, for provision that “Federal service” meant active service, including active duty for training purposes, in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration which either began after January 31, 1955, or terminated after October 27, 1958, if that service was continuous for 365 days or more, or was terminated earlier because of an actual service-incurred injury or disability, and with respect to that service, the individual was discharged or released under honorable conditions, did not resign or voluntarily leave the service, and was not released or discharged for cause as defined by the Department of Defense.

Subsec. (c). Pub. L. 97-362, §201(b), added subsec. (c). 1981—Subsec. (a)(1)(B). Pub. L. 97-35 substituted “honorable conditions;” for “conditions other than dishonorable; and” in cl. (i), and “did not resign or voluntarily leave the service; and” for “was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service;” in cl. (ii), and added cl. (iii).

1980—Subsec. (a)(1). Pub. L. 96-215 inserted “or the Commissioned Corps of the National Oceanic and At-

mospheric Administration” after “armed forces” in provisions preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 96-364 substituted “365” for “90”.

1976—Subsec. (a)(3). Pub. L. 94-566 added the Virgin Islands to definition of “State”.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 301(c) of Pub. L. 102-164 provided that: “The amendments made by this section [amending this section] shall apply to weeks of unemployment beginning on or after the date of the enactment of this Act [Nov. 15, 1991].”

EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITIONAL RULE

Section 201(c) of Pub. L. 97-362 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section], shall apply with respect to terminations of service on or after July 1, 1981, but only for purposes of determining eligibility for benefits for weeks of unemployment beginning after the date of the enactment of this Act [Oct. 25, 1982].

“(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to the extent that such amendments would (but for this paragraph) reduce the amount of compensation payable in the case of benefit years established before the date of the enactment of this Act [Oct. 25, 1982].”

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2405(b) of Pub. L. 97-35 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to terminations of service on or after July 1, 1981, but only in the case of weeks of unemployment beginning after the date of the enactment of this Act [Aug. 13, 1981].”

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 415(b) of Pub. L. 96-364 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.”

Amendment by Pub. L. 96-215 applicable with respect to assignments of services and wages pursuant to any first claim (for a benefit year) which is filed after Mar. 25, 1980, see section 4(c) of Pub. L. 96-215, set out as a note under section 8501 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 applicable with respect to benefit years beginning on or after later of Oct. 1, 1976, or first day of first week for which compensation becomes payable under an unemployment compensation law of Virgin Islands which is approved by Secretary of Labor under section 3304(a) of Title 26, Internal Revenue Code, see section 116(f)(3) of Pub. L. 94-566, set out as a note under section 3304 of Title 26.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

§ 8522. Assignment of Federal service and wages

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State in which the claimant first files claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed as assignment under section 8504 of this title for the purpose of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 591; Pub. L. 94-566, title I, §116(e)(5), Oct. 20, 1976, 90 Stat. 2673.)